APPEAL NO. 022803
FILED DECEMBER 10, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on October 16, 2002. With respect to the sole issue before her, the hearing officer determined that the appellant's (claimant) compensable injury of _____, does not extend to include an injury to the bilateral knees. In his appeal, the claimant argues that he presented sufficient evidence to prove that his compensable injury extended to include his bilateral knees. The respondent (carrier) responded to the claimant's appeal, urging that the hearing officer be affirmed in all respects.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable bilateral shoulder, right hip, and lumbar spine injury on _____. The claimant argued that he also injured his "bilateral knees" as a result of the _____ compensable injury, and that his alleged arthritis in his knees is worse because of the accident. The claimant presented no documentary evidence/medical records to support his assertion. The carrier argued, and presented medical records consistent with the fact that the claimant did not mention his knees to his doctors until 1995, when he retired, and at that time the claimant was complaining of back pain radiating to his knees. The carrier thus argued that the claimant had failed to present sufficient expert medical evidence to show a nexus between his alleged bilateral knee condition and the compensable injury. The hearing officer decided that the claimant failed to show a causal connection between his compensable injury and his bilateral knee injury, and that the claimant did not show that his compensable injury worsened, accelerated or enhanced a preexisting knee condition. The hearing officer did not err in determining that the claimant's compensable injury of _____, does not extend to include an injury to the bilateral knees.

Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). An appeals-level body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied). When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v.

Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986). We do not find so here.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **PACIFIC EMPLOYERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

ROBIN MOUNTAIN
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 300
AUSTIN, TEXAS 75063.

_____
Thomas A. Knapp
Appeals Judge

CONCUR:

_____
Judy L. S. Barnes
Appeals Judge

_____
Veronica Lopez
Appeals Judge